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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

ROBERT B. LUTZ, MD, MPH, a  
married man,

Plaintiff,

v.

SPOKANE REGIONAL HEALTH  
DISTRICT, a Washington State public  
health agency,

Defendant

No. 2:22-cv-00028-MKD

**FIRST AMENDED COMPLAINT**

**I. INTRODUCTION**

Plaintiff Robert B. Lutz, MD, MPH, for his complaint against the  
Defendants, states and alleges as follows:

## II. PARTIES

1. Plaintiff Robert B. Lutz, MD, MPH, (“Dr. Lutz”) a married individual, is now and was at all times material, a resident of Spokane County, Washington.

2. Defendant Spokane Regional Health District (“SRHD”) is now and was at all times material a Washington State local public health agency authorized to do business and transact business in Spokane County, Washington.

## III. JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 and venue is proper in this Court pursuant to 28 U.S.C. § 1441(a).

## IV. STATUTORY PRE-REQUISITES

4. For purposes of commencing a lawsuit against a local government entity, on October 8, 2021, Plaintiff submitted an administrative tort claim with the SRHD, conforming to the requirements of RCW 4.96 *et al.*

5. Plaintiff has allowed at least sixty (60) days to expire between the date of the submission of the administrative tort claim to SRHD and the filing of this action.

## V. FACTS

6. Dr. Lutz is a graduate of Temple University School of Medicine. Subsequently, he graduated from the University of Arizona as one of the founding fellows in an emerging field of medicine – Integrative Medicine, that looks to

1 combine the best of conventional western medicine with other fields, such as  
2 TCM, manual medicine, Naturopathy, and other disciplines. Dr. Lutz also pursued  
3 his master's in public health, with a focus on epidemiology while at the University  
4 of Arizona.

5  
6 7. Upon completion of a Family Medicine Residency and Sports  
7 Medicine Fellowship, Dr. Lutz received Board Certification, which he currently  
8 maintains, and a Certificate of Added Qualification.

9 **Spokane Regional Health District.**

10 8. The SRHD is one of 35 local public health agencies serving  
11 Washington state's 39 counties. The agency was originally established as the  
12 Spokane County Health District in January 1970. In 1994, the agency's official  
13 name was changed to Spokane Regional Health District to reflect the increased  
14 scope of public health services and geographic coverage.

15  
16 9. The Spokane Regional Health District was created as part of a  
17 statewide program for the benefit of the health of the state even if it also acts  
18 within the territorial limits of Spokane County.

19  
20 10. The SRHD is a part of the statewide public health system and is  
21 required to implement, promote, and enforce the State public health programs and  
22 laws, and reports to the State.

23 11. Protecting the public's health across the state is a fundamental  
24 responsibility of the state and is accomplished through the governmental public

1 health system. This system is comprised of the state department of health, state  
2 board of health, local health jurisdictions, sovereign tribal nations, and Indian  
3 health programs.

4 12. The local health jurisdictions are required to work collaboratively  
5 with the other health entities to protect and improve the health of the entire State.  
6

7 13. The SRHD is a key part in the State's governmental public health  
8 system created to work within the State governmental public health system and  
9 accomplish the State's responsibility of protecting the public's health across the  
10 State.

11 14. The SRHD performs a state function and is concerned with statewide  
12 health programs.

13 15. Local health jurisdictions, local boards of health, local health officers  
14 and administrative officers form the local action arm of the Washington  
15 governmental public health system.  
16

17 16. RCW 70.05 is the primary state law behind the formation, authority,  
18 power, and duties of the local board of health, local health officer, and  
19 administrative officer.  
20

21 17. The Washington State Department of Health promotes and protects  
22 public health, monitors health care costs, maintains standards for quality health  
23 care delivery and plans activities related to the health of Washington citizens. The  
24 Department's programs and services help prevent illness and injury, promote

1 healthy places to live and work, provide education to help people make good  
2 health decisions and ensure our state is prepared for emergencies.

3 18. Washington implements, promotes and protects the public health  
4 though its local health districts and departments. Washington State has a  
5 decentralized governmental public health system characterized by local control and  
6 partnerships. Along with the state Department of Health, the system includes 35  
7 local public health departments and local health districts (serving 39 counties), the  
8 state Board of Health, tribal governments and other partners.  
9

10 19. The SRHD is a product of the Washington State statutes and only  
11 exists at the permission and requirement of the State and is authorized and  
12 permitted pursuant to the statutes enacted by the Washington State Legislature.  
13

14 20. The State Board of Health is required to develop and implement  
15 public health policy and rules “in order to protect public health.”

16 21. The State Board of Health has the legal authority to develop public  
17 health rules that local health jurisdictions are required to implement and enforce.  
18

19 22. All local boards of health, health authorities and officials, officers of  
20 state institutions, police officers, sheriffs, constables, and all other officers and  
21 employees of the state, or any county, city, or township thereof, shall enforce all  
22 rules adopted by the state board of health.  
23  
24

1           23. Local health jurisdictions, like the SRHD, are required to carry out the  
2 public health safety requirements established by the State for the benefit of the  
3 entire State.

4           24. The functions performed by the SRHD are done under the direction of  
5 the State and are for the benefit and purpose of the State as a whole.  
6

7           25. SRHD serves as an extension of the State Department of Health to  
8 ensure the health of the public of the State.

9           26. The SRHD receives a significant amount of money from the State.

10          27. At least forty percent of the SRHD's budget comes from the State.

11          28. Of the SRHD's roughly \$48 million dollar budget over \$19 million  
12 dollars comes from the State.  
13

14          29. In contrast, Spokane County only provides only about four percent of  
15 the SRHD budget.

16          30. The SRHD receives millions of dollars a year from the state  
17 government.  
18

19          31. The SRHD is run by the Spokane Regional Health District Board of  
20 Health ("SRHD Board") whose primary purpose is to act as the governing body of  
21 the SRHD and, among other things, "to create and promote prudent public health  
22 policy within the Spokane area health district." The SRHD Board has a governance  
23 function for the agency, but it does not direct public health policy for Spokane  
24 County.

1           32. A local board of health must enforce through the local health officer  
2 or the administrative officer appointed under RCW 70.05.040, if any, the public  
3 health statutes of the state and rules promulgated by the state board of health and  
4 the secretary of health.

5           33. The SRHD is also required to make reports to the State Board of  
6 Health.

7           34. County Commissioner Al French and member of the Board of the  
8 Spokane Regional Health District testified that his expectations are to “get the  
9 Health District more narrowly aligned with its core functions and to basically  
10 eliminate stupid stuff...” and that the Health District was focused on “key  
11 functions.”

12           35. Commissioner French clarified that he “wanted to make sure the  
13 things we were doing were things we were statutorily required to do.”

14           36. Mayor Kevin Freeman and Chair of the Board of the Spokane  
15 Regional Health District testified that the SRHD is concentrating on what it needs  
16 to provide and identified only programs required by the State for the benefit of the  
17 entire State.

18           37. The prior Administrative Health Officer of the Spokane Regional  
19 Health District testified that as part the SRHD Executive Leadership “restructure”  
20 was identified what the SRHD is “required to do by statute as a public health  
21  
22  
23  
24

1 district or department” and identify programs that the SRHD does not have to  
2 provide.

3 38. The SRHD and the programs in which the SRHD is involved are  
4 deliberately limited to only what the State requires the SRHD to provide as part of  
5 the statewide programs.  
6

7 39. The Covid-19 pandemic provides useful insight into the authority of  
8 the State which implemented multiple regulations related to the Pandemic dictating  
9 what local health jurisdictions could or could not do and which the local health  
10 jurisdictions were required to enforce to benefit the citizens of the entire State.  
11

12 40. The SRHD must meet the standards promulgated by the Department  
13 of Health and State Board of Health and exists to implement and enforce state  
14 public health statutes, as well as rules promulgated by the state board of health and  
15 the secretary of health.

16 41. SRHD reports to the state board of health and functions to promote  
17 the public health of the state as a whole and to carry out state guidelines and  
18 regulations.  
19

20 42. In 2016, the SRHD Board adopted a new organizational structure and  
21 implemented modified Bylaws.

22 43. SRHD’s bylaws did not require that anyone with medical or public  
23 health experience must be on the Board, despite one of its primary purposes being  
24



1 to “to create and promote prudent public health policy within the Spokane area  
2 health district.”

3 44. Only the Local Health Officer (“LHO”) was required to be “trained  
4 and experienced in public health.”

5 45. The position of the local health officer is also created by the State, and  
6 local health jurisdictions are required by the state to have a local health officer.

7 46. The local health officer, in turn, must enforce the public health  
8 statutes of the state, rules of the state board of health and the secretary of health.

9 47. The qualifications for local health officers are also set by the State.

10 48. If a local health officer does not meet the requirements, they can only  
11 operate for a limited period of time and only through the State Secretary of Health.

12 49. The State Board of Health also retains authority over local health  
13 officers and local administrative officers to remove them from their positions.

14 50. The State Secretary of Health’s responsibilities also cover local health  
15 jurisdictions and local health officers. This was true the entire time Dr. Lutz served  
16 as the LHO. The LHO’s role was thus critical given the political nature of the  
17 SRHD’s governing Board.

18 51. The SRHD’s modified bylaws also provided that an administrator  
19 should be the director of the SRHD and report to the SRHD Board. This  
20 Administrative Officer (“AO”) serves “at the pleasure of the Board” and also  
21 serves as the Executive Secretary of the Board.

52. Regarding duties of the LHO, the SRHD bylaws state:

Article VI – District Health Office (RCW 70.05.070) – The District Health Officer shall perform such duties as are provided by law and directed by the Administrator. He/she shall be responsible to the Administrator for his/her official actions.

53. The SRHD Board also modified the bylaws to align with Washington law, requiring that the LHO could neither be hired/fired without Board approval.

54. In contrast to the AO, who serves at “the pleasure of the Board,” the bylaws as well as RCW 70.05 and RCW 34.05 require notice, a hearing, and SRHD Board approval prior to the LHO’s termination.

#### **Dr. Lutz’s Role at SRHD**

55. On or about May 15, 2017, Dr. Lutz was hired by the SRHD Board to serve as the LHO.

56. Dr. Lutz’s job duties and responsibilities as LHO are detailed by the Washington State Legislature: RCW 70.05.070; WAC 246-101-505; and WAC 246-100-036.

57. Neither the SRHD Board nor other employees it hired had the authority to restrict or limit Dr. Lutz’s performance of these statutorily prescribed duties and obligations.

#### **Dr. Lutz’s Job Performance from May 2017 – September 16, 2019**

58. Dr. Lutz received an interim performance evaluation in January or February 2018 by his supervisor Torney Smith. Dr. Lutz received high marks

1 across the board, with Mr. Smith finding that Dr. Lutz exceeded nominal  
2 requirements in all areas.

3 59. Dr. Lutz' most recent performance evaluation occurred in November  
4 2018. The rating system ranged from Exceptional, Achieves, Growth, and  
5 Unsatisfactory. Mr. Smith found that of the eighteen evaluated areas, Dr. Lutz had  
6 met goals and was rated as "Achieves" in sixteen. He was assessed as  
7 "Exceptional" in two areas ("Communication" and "Shares job knowledge with  
8 co-workers"). Regarding "areas of improvement," Mr. Smith advised Dr. Lutz to  
9 focus more on working through managers, as opposed to communicating directly  
10 to staff.  
11

12 **Amelia Clark Hired as Administrative Officer**

13  
14 60. In 2019, SRHD began the process for locating a new AO largely  
15 without the help or involvement of Dr. Lutz. Dr. Lutz did not participate in the  
16 interview process.

17 61. In August 2019, Amelia Clark was hired by the SRHD Board to act as  
18 the SRHD's AO.

19  
20 62. In early 2020, Dr. Lutz met with AO Clark to review the LHO's  
21 professional goals for 2020, which she supported. Ms. Clark raised no performance  
22 issues or concerns.  
23  
24

## **Gun Violence, Public Health, and Free Speech**

63. Advocacy to benefit the public health was more to Dr. Lutz than his job, it was a career-long passion. Thus, when asked or if an opportunity was presented, Dr. Lutz advocated for the health of the community, to include authoring Op-Ed pieces for publication in the Spokane Region to raise awareness of public health issues.

64. Despite Dr. Lutz's right and obligation as the LHO to engage in such advocacy, his views often met with resistance and outright hostility by some SRHD Board members, SRHD staff, and other elected officials in the region.

65. For example, as a veteran, medical doctor and public health official, Dr. Lutz knew first-hand the public health and safety issues surrounding guns and gun violence. He was a frequent and passionate advocate for gun safety.

66. However, Dr. Lutz's expression of his views on the issue were unpopular with some of the staff at SRHD, as well as certain SRHD Board members. Dr. Lutz was admonished by the interim AO in February 2019, for comments made during an all-staff meeting, at which time he stated suicide prevention could not be adequately addressed unless a primary means of suicide, i.e., firearms, was likewise addressed.

67. Dr. Lutz was told by Ms. Clark he was not to communicate with state representatives for Spokane County with whom he had previously communicated

1 regarding firearm safety. And in 2020, Dr. Lutz was instructed that he would need  
2 to obtain approval from the SRHD Board before submitting any Op-Ed pieces

3 **George Floyd, Racism, Public Health and Free Speech**

4 68. On May 25, 2020, after the killing of George Floyd, Dr. Lutz authored  
5 an Op-Ed piece about structural racism and forwarded it to SRHD's public  
6 information officer, who reviewed and edited the piece and forwarded it to Ms.  
7 Clark.  
8

9 69. SRHD informed Dr. Lutz it would not approve this for publication  
10 with no explanation as to why and that he could not submit his Op-Ed for  
11 publication. No further information was provided at that time.  
12

13 70. On May 31, 2020, Dr. Lutz participated in a George Floyd – Black  
14 Lives Matter march, believing it a public health issue deserving his participation,  
15 and in doing so, he took appropriate precautions against COVID-19 spread (face  
16 covering; physical distancing).

17 71. Dr. Lutz was subsequently told “the Board” was not happy with his  
18 participation.  
19

20 72. Despite the clear public health aspects of Dr. Lutz's Op-Ed draft and  
21 his participation in the march, some members of the SRHD Board were not pleased  
22 and voiced displeasure for Dr. Lutz taking this public health stance and action.

23 73. Certain SRHD Board members were not happy with his race-related  
24 public health actions and attempted to intervene to get him to stop.

1           74. In fact, Ms. Clark documented a meeting she had with Dr. Lutz where  
2 he was advised of the concerns SRHD Board members had about him attending the  
3 “peaceful race protest.” Ms. Clark instructed Dr. Lutz to separate his personal  
4 views from actions that could be connected to SRHD.

5           75. On July 25, 2020, the SRHD Board passed a resolution aimed at  
6 breaking the cycle of health inequity. In furtherance of this resolution, and in  
7 furtherance of duties as LHO, Dr. Lutz published an Op-Ed on August 9, 2020  
8 entitled “COVID has exposed structural racism in public health system.” This Op-  
9 Ed was submitted to and approved by Amelia Clark.  
10

11           76. Dr. Lutz learned that Mr. Wick and Ms. Kuney of the SRHD Board  
12 questioned why Dr. Lutz had written about racism, instead of his decision to  
13 recommend schools reopen in remote learning, as recommended by the  
14 Department of Health. Dr. Lutz told Ms. Clark of his concern that these  
15 communications by SRHD Board members were an attempt to put political  
16 pressure on him.  
17

18           77. Dr. Lutz told Ms. Clark that he could and would also write a piece on  
19 education and thought co-authoring it with Maria Howard, PhD, who facilitated  
20 SRHD’s ethics committee, would be a great opportunity of explaining the  
21 decision-making and inherent ethical tension behind it. Ms. Clark agreed to allow  
22 Dr. Lutz to write this piece.  
23  
24

1           78. After the Op-Ed on education was published on August 23, 2020, Dr.  
2 Lutz received an email from Ms. Clark asking if the Op-Ed had in fact been  
3 published. Dr. Lutz stated it had been published, and that Ms. Clark had reviewed  
4 and approved its publishing. Ms. Clark replied that she had misunderstood its  
5 authorship and thought it was only coming from Dr. Howard. She wrote Dr. Lutz  
6 that “Board is unhappy with your Op-Ed pieces” and that SRHD needed to get out  
7 of politics. Ms. Clark told Dr. Lutz she did not want him writing further Op-Eds.

9           79. During a heated SRHD Executive Committee of the Board meeting on  
10 September 17, 2020, the SRHD Board decided that Dr. Lutz could only continue to  
11 write Op-Ed pieces, so long as there was a disclaimer to the effect it represented  
12 solely Dr. Lutz’s opinion and not that of SRHD or its Board.

14           **Dr. Lutz’s Response to COVID-19**

15           80. In February 2020, the nation was hit with the first wave of the  
16 COVID-19 pandemic.

17           81. On February 29, 2020, Gov. Jay Inslee declared a statewide  
18 emergency due to the spread of coronavirus (COVID-19).

19           82. While Dr. Lutz had a significant amount of discretion as LHO, many  
20 of the decisions, statements and actions he would take were driven by directives  
21 from the state and federal governments, consistent with his statutory  
22 responsibilities to enforce the public health statutes of the state, rules of the state  
23 board of health and the secretary of health, and all local health rules, regulations  
24

1 and ordinances within his jurisdiction (RCW 70.05.070). At times, Dr. Lutz was  
2 publicly criticized by elected officials, business leaders and community members  
3 for actions he took in carrying out his duties as LHO. Undeterred, Dr. Lutz always  
4 looked to medical science and data to guide him in carrying out his prime directive  
5 – promote the public health.  
6

7 83. Almost immediately after Governor Inslee’s COVID-19 declaration,  
8 decisions and actions taken by Dr. Lutz to protect the public health were met with  
9 resistance, as many had economic and social impacts on the businesses and citizens  
10 of the Spokane Region.  
11

12 84. In March 2020, Dr. Lutz was forced to cancel the Washington State  
13 Middle School Basketball Championships, based on risks to public health,  
14 including bringing thousands of people to Spokane from across the Pacific  
15 Northwest.  
16

17 85. The cancellation of this event was not viewed favorably by local  
18 officials.  
19

20 86. For example, Kate Hudson, Visit Spokane spokeswoman, said the  
21 cancellation would have a devastating economic impact on Spokane, which  
22 Spokane Mayor Nadine Woodward echoed in a news conference the same day. Dr.  
23 Lutz was further questioned about his intentions for the upcoming NCAA  
24 tournament given the expected economic impact. Dr. Lutz also received negative



1 comments from SRHD Board members about the economic impact Dr. Lutz's  
2 order was having on the community.

3 87. The message these officials were sending to Dr. Lutz was that  
4 regional economic impacts should be a primary factor in his public health  
5 decisions.  
6

7 88. One March 17, 2020, local elected officials in the Spokane region  
8 declared states of emergency after Spokane's first COVID-19 case was reported on  
9 March 14, 2020. On March 20, 2020, Dr. Lutz also signed a Declaration of Public  
10 Health Emergency on behalf of SRHD.

11 89. On March 20, 2020, Dr. Lutz took another COVID-19 preventive  
12 measure as the LHO when he issued a directive regarding closing playgrounds.  
13

14 90. Again, Dr. Lutz received push-back from some SRHD Board  
15 members regarding this decision, pushing for him to reopen the playgrounds,  
16 despite Dr. Lutz's understanding of the science at the time and his role as LHO that  
17 they had to be closed to address public health concerns raised by the potential rapid  
18 spread of the virus.

19 91. On March 23, 2020, Governor Inslee issued Washington's "Stay  
20 Home Stay Safe" Proclamation. Rather than discussing public-health related issues  
21 surrounding this Proclamation, the SRHD Board focused solely on economic and  
22 other impacts of the Order.  
23  
24

**Political Pressure to Reopen the Economy Despite Public Health Concerns; and Pressure to Fire Dr. Lutz**

92. On May 4, 2020, Governor Inslee released Washington's Phase Approach to reopening, which placed Spokane in the most restrictive Phase 1. Almost immediately, local elected officials, including some SRHD Board members, began to pressure Dr. Lutz to move Spokane to Phase 2.

93. The first set of criteria for counties to apply for a variance for Phase 2 required a population less than 75,000 and no cases over the preceding 2 weeks, criteria met by only 5 counties. Despite the fact that Spokane County could not meet these criteria, Dr. Lutz was pressured by Commissioner French (also a SRHD Board member) to immediately apply for a variance.

94. In response, Dr. Lutz discussed a variance request with the Governor's Eastern Washington representative, Adam McDaniel. Mr. McDaniel acknowledged that there was no process as yet defined, and that a request by Spokane to go to Phase 2 at the time would be refused. Dr. Lutz decided to proceed as urged by French and others; to request a variance; however, believing the process would serve to demonstrate to Spokane elected officials the need to follow DOH and Governor protocols, as well as an opportunity to start collecting materials and data that would possibly be used when subsequent criteria were released.

1           95. As expected, Secretary of Health, John Weisman rejected the request  
2 on May 14, 2020.

3           96. On May 19, 2020, the Governor announced expanded county variance  
4 criteria. Immediately, Commissioner French stated: “We want to be in Phase 2  
5 before Memorial Day Weekend.” Completely bypassing the SRHD and Dr. Lutz,  
6 Commissioner French and his fellow county commissioners passed a resolution on  
7 May 19, 2020 and penned a letter to the governor requesting that Spokane County  
8 be moved immediately into Phase 2.  
9

10           97. Dr. Lutz was told by Commissioner French and others that he needed  
11 to apply for a variance immediately. Commissioner French asked Dr. Lutz how  
12 long it would take to pull the materials together and was unhappy when told it  
13 would take a few days. Dr. Lutz and his SRHD team were expected to and did  
14 work through the weekend to pull all materials together, requiring staff to drop  
15 what they were doing to comply with Commissioner French’s demand.  
16

17           98. On May 20, 2020, Dr. Lutz as LHO issued a directive regarding face  
18 coverings. Again, this public health decision was not supported by some members  
19 of the SRHD Board and other elected officials.  
20

21           99. On May 23, 2020, Spokane’s request for a variance to move to Phase  
22 2 was approved. Once the variance was approved, some officials began an  
23 immediate push to move to Phase 3 as soon as possible.  
24

1           100. In early June 2020, SRHD Board members were receiving complaints  
2 from voters about Dr. Lutz and his COVID-19 related actions. One voter asked  
3 Commissioner French why Dr. Lutz has more power than the Board of County  
4 Commissioners. In another complaint, Commissioner French was told Dr. Lutz  
5 was “destroying business” and “must be gone now.” Commissioner French caused  
6 these emails to be sent to Ms. Clark at SRHD, without copying Dr. Lutz.  
7

8           101. On information and belief, Commissioner French (and others) wanted  
9 Dr. Lutz fired because, as LHO, his COVID-19 response actions were not in  
10 alignment with the economic and political views of certain SRHD Board members.  
11

12           102. By mid-June 2020 there was mounting pressure on Dr. Lutz from a  
13 number of fronts, including certain members of the SRHD Board and the Mayor of  
14 Spokane, to move to Phase 3. As reported in the local media at the time, “elected  
15 leaders in Spokane County are pushing for a move into Phase 3 of reopening,  
16 despite the county's health officer expressing that the area isn't ready to move  
17 forward.”  
18

19           103. Dr. Lutz was then summoned to a meeting on June 15, 2020, with Ms.  
20 Clark, SRHD Board Chair Wick and SRHD Vice Chair Commissioner Kuney. Dr.  
21 Lutz thought the purpose was to discuss open issues, but the meeting turned out to  
22 be a type of ad-hoc performance review.  
23  
24

1           104. Dr. Lutz had received no performance evaluation since Ms. Clark  
2 started, nor had there been any formal complaints or criticisms concerning his job  
3 performance during that time.

4           105. This first “performance evaluation” followed Dr. Lutz publicly stating  
5 he felt the data did not warrant moving to Phase 3.  
6

7           106. The next day, after the surprise “job performance” meeting, and  
8 ignoring the public statement of Dr. Lutz regarding the current situation and  
9 moving to Phase 3, on June 16, 2020, the Spokane County Board of  
10 Commissioners passed a unanimous resolution approving the drafting and signing  
11 of a letter to Dr. Lutz. The resolution demanded “begin the process of allowing  
12 Spokane County to move to Phase 3.”  
13

14           107. No members of the Spokane County Board of Commissioners were  
15 willing to discuss with Dr. Lutz the steps for transition to Phase 3, either in their  
16 capacity as Commissioners or as members of the SRHD Board.

17           108. After careful consideration of the request, weighing all available  
18 medical and scientific data and statistics, on June 18, 2020, Dr. Lutz declined to  
19 initiate a request to move to Phase 3 because the relevant metrics were not met.  
20 During this same time Dr. Lutz declined to initiate a request to move to Phase 3,  
21 Ms. Clark prepared a formal Performance Improvement Plan (PIP) and sent a draft  
22 of the same to Mr. Wick and Ms. Kuney for review and comment. Thereafter, Mr.  
23  
24

1 Wick advised Ms. Clark that after he had spoken to SRHD's counsel and Ms.  
2 Kuney, they decided not to proceed with a PIP for Dr. Lutz.

3 109. On June 24, 2020, Dr. Lutz had a follow up meeting with Ms. Clark,  
4 Ms. Kuney and Mr. Wick. During this session and the follow-up, no performance  
5 plan was discussed. The only action item agreed to was restarting weekly one-on-  
6 one meetings between Ms. Clark and Dr. Lutz. Dr. Lutz's suggestion of hiring a  
7 facilitator to broker better communication between himself and Ms. Clark was  
8 considered a "waste of taxpayers' dollars" by Ms. Kuney.

9  
10 110. Unbeknownst to Dr. Lutz, Ms. Clark prepared and circulated several  
11 draft documents to the SRHD Human Resources department, Ms. Kuney, and Mr.  
12 Wick; among these were draft documents including a performance improvement  
13 plan. While these draft documents were prepared by Ms. Clark for submission to  
14 Dr. Lutz, and ostensibly copied to Mr. Wick, Ms. Kuney and Dr. Lutz's "personnel  
15 file," they were never given to Dr. Lutz nor placed in his file.  
16

17 **Pressure on Dr. Lutz Regarding Reopening Schools**

18 111. On August 3, 2020, Dr. Lutz, based on State DOH guidelines,  
19 strongly recommended that area schools begin their 2020-2021 academic year  
20 online.  
21

22 112. On August 7, 2020, Ms. Clark again considered issuing Dr. Lutz a  
23 Performance Improvement Plan, the same one she considered giving him in June.  
24 As before, Ms. Clark elected not to provide this document to Dr. Lutz.

1 113. Instead, Dr. Lutz was informed by Ms. Clark she had heard from Mr.  
2 Wick and Ms. Kuney about his recommendations, wanting to know why he had  
3 made this decision.

4 **Dr. Lutz States Current Data May Require a Return to Phase 2.**

5 114. On October 14, 2020, just two weeks before he was fired, Dr. Lutz  
6 made statements to the press about the possible need to move back a phase due to  
7 recent COVID-19 data.

8  
9 115. That same day, October 14, 2020, Ms. Kuney relayed a complaint she  
10 had received from a constituent about Dr. Lutz possibly sending Spokane back a  
11 phase, asking whether the Board of County Commissioners could do anything and  
12 asked if someone would stand up to this guy. Ms. Kuney promptly sent this  
13 “complaint” to Ms. Clark.  
14

15 **October 29, 2020 -- SRHD Board Executive Session**

16 116. Unbeknownst to Dr. Lutz, on October 29, 2020, just shortly after  
17 stating Spokane may need to move back to Phase 2, the SRHD Board met with Ms.  
18 Clark and legal counsel concerning Dr. Lutz’s job.

19 117. Dr. Lutz’s personnel file contains no performance evaluations from  
20 Ms. Clark, and the only one that is in his file was the favorable evaluation provided  
21 in late 2018.  
22

23 118. Other than Ms. Clark’s “personal file” of her own notes she  
24 maintained on Dr. Lutz, including select meeting notes and copies of select emails

1 between Dr. Lutz and others, nothing in Dr. Lutz's personnel file suggests he was  
2 on the verge of being terminated for performance issues.

3 119. The SRHD Board executive meeting was not public, and there was no  
4 public vote related to Dr. Lutz's job.

5 120. Ms. Clark, however, left the executive meeting and prepared a PIP  
6 and warning letter. However, she also had prepared a Separation Agreement the  
7 day prior with SRHD legal counsel and additional counsel, ostensibly provided by  
8 the County.  
9

10 121. To date, neither any SRHD Board member nor Ms. Clark has  
11 explained who authorized this Separation Agreement, including the offer of  
12 \$53,408.85 to Dr. Lutz in exchange for a full release of claims and confidentiality.  
13

14 122. SRHD's bylaws, in Article IV, confirm that the authority of the  
15 District Board of Health "shall be as prescribed by the laws of the State of  
16 Washington," and specifically references RCW 70.05.

17 123. Section 3 of Article IV states that "The Board of Health shall approve  
18 the appointment and termination of a District Health Officer."  
19

20 124. Taken together, RCW 70.05. and SRHD's bylaws created a  
21 reasonable expectation that Dr. Lutz could only be terminated for just cause after  
22 notice and hearing before the SRHD Board.  
23  
24



**October 29, 2020, SRHD Fires Dr. Lutz**

125. Ms. Clark asked Dr. Lutz to meet her at the end of the day on October 29, 2020. Also in attendance in the meeting was Ben Wick.

126. At no point did Ms. Clark discuss a PIP.

127. At this meeting there was no discussion of a SRHD Board vote, no discussion of a warning letter and no discussion of any PIP.

128. Further, at no point was Dr. Lutz told that he was being placed on administrative leave, as Ms. Clark later claimed. Rather, Ms. Clark told Dr. Lutz that he was fired “effective immediately” and demanded his keys, laptop, credentials and all other SRHD materials. Dr. Lutz was also handed the Separation Agreement that had been prepared ahead of the meeting and was told he had until 4:00 pm the next day to sign it. Dr. Lutz was allowed to say goodbye to his assistant and call his wife to pick him up from SRHD, and then was escorted out of the building by Mr. Wick. SRHD’s attorney, Michelle Fossum, confirmed in email the same day that Dr. Lutz had been fired.

129. On October 29, 2020, Ms. Clark contacted Sam Artzis, MD, the Health Officer for the Northeast Tricounty Health Department, and asked him to be the interim health officer for SRHD because SRHD had let Bob go and “Dr. Lutz will no longer be with the SRHD.”

130. Steve Smith and Lyndia Wilson, SRHD Directors, were informed by SRHD on October 29, 2020, that Dr. Lutz had been fired.

1           131. The next day, October 30, 2020, at 7:47 am, Ms. Clark sent an e-mail  
2 to SRHD staff, stating: “Yesterday, October 29 was Bob Lutz’s last day at the  
3 Health District,” directly refuting a claim later made by Ms. Clark that Dr. Lutz  
4 was on “administrative leave.”

5           132. Later that day, in what was described as a chaotic news conference,  
6 Ms. Clark refused to say whether Dr. Lutz was fired, or he resigned. But she did  
7 state there was not currently a health officer in charge of the district, and she would  
8 look for a contract worker to immediately replace Dr. Lutz.

9           133. On October 30, 2020, then Spokane City Council President (now  
10 Judge) and member of the Board of the Spokane Regional Health District released  
11 an announcement stating: “Yesterday evening I received the unexpected news that  
12 the Spokane County Public Health Officer had been terminated from his position at  
13 the Spokane County Health District.”

14           134. The SRHD’s decision to terminate Dr. Lutz on October 29, 2020 is a  
15 function of its involvement in the statewide public health system.

16           135. The State Board of Health opened a matter and brought an action  
17 against the SRHD Administrative Officer for termination of Dr. Lutz in violation  
18 of the law.

19           136. The State Board of Health approved an investigation into the SRHD’s  
20 actions with a preliminary finding that the termination of Dr. Lutz’ employment  
21 was done in violation of state law.

1           137. Following which, the State Board of Health initiated an action to be  
2 heard pursuant to the requirements of the WAPA and before an Administrative  
3 Law Judge regarding the unlawful termination of Dr. Lutz in violation on RCW  
4 70.05.050 – which was ultimately dismissed following the SRHD’s Administrative  
5 Officer agreeing to cease being the Administrative Officer and never again seek to  
6 be the Administrative Officer.  
7

8           138. The SRHD’s termination of Dr. Lutz in violation of RCW 70.05.050  
9 is a matter of State concern and the SRHD’s actions regarding a matter of state  
10 concern.  
11

12           139. Dr. Lutz was not provided the reason or notice of the reason for  
13 removal when he was fired on October 29, 2020.

14           **SRHD Tries to Revise and Recharacterize Termination**

15           140. Recognizing that the SRHD Board’s executive session either violated  
16 applicable laws or that Ms. Clark lacked the legal authority to fire Dr. Lutz –  
17 something that could be done only by the SRHD Board upon proper notice and  
18 hearing – Ms. Clark, through counsel, attempted to revise history and characterize  
19 Dr. Lutz’s status as “administrative leave,” despite the fact she had stated  
20 specifically he was fired “effective immediately” on October 29, told staff his last  
21 day was October 29, and Ms. Clark’s counsel issued an email on October 29, 2020  
22 stating that Dr. Lutz had been fired by Ms. Clark.  
23  
24

1 141. Proper procedures to terminate Dr. Lutz had not been followed;  
2 including but not limited to, any hearing, including seven days' notice under  
3 Washington's Administrative Procedures Act (WAPA) and other WAPA  
4 procedural requirements.

5 142. The SRHD failed to comply with any the provisions of the WAPA.

6 143. In particular, the SRHD failed to comply with the procedural  
7 requirements for adjudicative proceedings under the WAPA – including RCW  
8 34.05.010, RCW 34.05.428-437; RCW 34.05.446-461.  
9

10 144. The SRHD Board, through counsel, stated that the WAPA did not  
11 apply, and it would proceed with a “special meeting” on November 5, 2020 –  
12 giving Dr. Lutz fewer than 48 hours' notice – to vote to approve his termination;  
13 although he had already been fired by Ms. Clark on October 29, 2020.  
14

15 145. Further compounding the procedural problems with the Board's  
16 “special meeting” was the fact that only Dr. Lutz and Ms. Clark were permitted to  
17 speak for a brief period of time, and neither could ask questions of each other or  
18 any SRHD Board member. No witnesses were allowed, there was no testimony  
19 provided under oath, and no cross examination was allowed.  
20

21 146. The “special meeting” was merely an after-the-fact procedural attempt  
22 to ratify Ms. Clark's illegal October 29 termination, and deflect criticism directed  
23 at Ms. Clark and the SRHD Board.  
24

1           147. Through the course of the “special meeting,” it was clear that few, if  
2 any, SRHD Board members had read Dr. Lutz’s submission.

3           148. Members of the Board of the Spokane Regional Health District have  
4 stated that they did not receive or did not review Dr. Lutz’s submission.

5           149. Another odd feature of this “special meeting” was that few questions  
6 were directed to Ms. Clark asking her about Dr. Lutz’s responses to her  
7 performance allegations.

8           150. The SRHD Board also received and accepted hundreds of documents  
9 from Ms. Clark after the deadline for submission.

10           151. Neither Dr. Lutz nor his counsel were permitted to ask any questions  
11 or present any witness testimony.

12           152. After statements from both Ms. Clark and Dr. Lutz, and a period for  
13 questions, the SRHD Board adjourned to a lengthy Executive Session.

14           153. Al French has testified that the reasons for Dr. Lutz’ termination were  
15 separate from the allegations made by the Administrative Officer.

16           154. These purported reasons were not brought up prior to the November 5,  
17 2020 special meeting or at the November 5, 2020 special meeting, and Dr., Lutz  
18 was not afforded and opportunity to even respond to the unidentified reasons for  
19 dismissal.  
20  
21  
22  
23  
24

1           155. The Administrative Officer, members of the Board of the SRHD, and  
2 their attorneys went into a lengthy executive session meeting from which Dr. Lutz  
3 was excluded to discuss reasons for his termination.

4           156. Following the lengthy executive session, there was a motion to  
5 approve the October 29, 2020, termination of Dr. Lutz by Commissioner French –  
6 which passed – there was no discussion or notice of the reason or reasons for the  
7 approval of Dr. Lutz’ termination.

8           157. The votes cast by the twelve-member Board largely followed political  
9 lines.

10           158. Dr. Lutz was not given notice of any purported reasons that were  
11 presented or discussed in his absence.

12           159. Dr. Lutz was never afforded the hearing required by RCW 70.05.050  
13 or the WAPA.

14           160. Dr. Lutz was not afforded notice of the purported reasons for his  
15 removal.

16           161. Dr. Lutz was not allowed a hearing as required. Dr. Lutz was not  
17 given notice of the reason for termination or even any actual reason for his  
18 termination. Dr. Lutz was terminated in violation of the SRHD Bylaws and  
19 applicable statutes because the SRHD Board and Ms. Clark did not like his public  
20 statements on public health issues and/or Dr. Lutz’s refusal to bend to political  
21 pressure in the public health response to COVID-19.

1 162. On November 5, 2020, the Administrative Officer of the SRHD  
2 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
3 attorney for the SRHD, and numerous members of the public during a public  
4 special meeting, that Dr. Lutz had intended to send a letter condemning the  
5 decision to cut the Eastern Washington University undergraduate public health  
6 program and that Dr. Lutz had added his signature block to the letter.  
7

8 163. Defendant knew this statement was false because the letter was not  
9 written by Dr. Lutz and Dr. Lutz made it clear the letter was not coming from Dr.  
10 Lutz; Dr. Lutz did not add his signature, nor could he as he did not have access to  
11 his electronic signature which was held by SRHD and only added by SRHD with  
12 the approval of the Administrative Officer.  
13

14 164. Prior to making the false statement, the Administrative Officer was  
15 informed by Dr. Lutz and by SRHD staff that her statement was false.

16 165. Dr. Lutz informed the Administrative Officer and the Board of the  
17 Spokane Regional Health District of the falsity of the statement in writing on  
18 November 5, 2020.  
19

20 166. On November 5, 2020, the Administrative Officer of the SRHD  
21 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
22 attorney for the SRHD, and numerous members of the public during a public  
23 special meeting, that Dr. Lutz had ordered thermal scanners for a homeless shelter  
24 in contravention of her directive.

1 167. Defendant knew this statement was false because she had never had a  
2 conversation with Dr. Lutz about not providing thermal scanners for the homeless  
3 shelter or anything with respect to funding for items for the homeless shelter and  
4 Dr. Lutz did not order the thermal scanners as that has to all go through the  
5 SRHD's process which Dr. Lutz does not control.  
6

7 168. Dr. Lutz informed the Administrative Officer and the Board of the  
8 Spokane Regional Health District of the falsity of the statement in writing on  
9 November 5, 2020.

10 169. On November 5, 2020, the Administrative Officer of the SRHD  
11 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
12 attorney for the SRHD, and numerous members of the public during a public  
13 special meeting, that Dr. Lutz told state and local officials SRHD wanted funding  
14 for its own lab.  
15

16 170. Defendant knew this statement was false because she was party to the  
17 discussions in which it was clear Dr. Lutz never asked for funding for SRHD to  
18 have its own lab.  
19

20 171. Dr. Lutz informed the Administrative Officer and the Board of the  
21 Spokane Regional Health District of the falsity of the statement in writing on  
22 November 5, 2020.

23 172. On November 5, 2020, the Administrative Officer of the SRHD  
24 falsely stated to members of the Board of the SRHD, employees of the SRHD,



1 attorney for the SRHD, and numerous members of the public during a public  
2 special meeting, that Dr. Lutz had misrepresented who would author an opinion  
3 article on education which ultimately identified Dr. Lutz as one of the authors.

4 173. Defendant knew this statement was false because she asked Dr. Lutz  
5 to write such an article, there was never any statement that it would be authored  
6 solely by a third-party, and the article was reviewed and approved by the  
7 Administrative Officer prior to it being published. Additionally, the  
8 Administrative Officer discussed the opinion article topics with Dr. Lutz and  
9 approved the topics prior to the articles being published.  
10

11 174. Dr. Lutz informed the Administrative Officer and the Board of the  
12 Spokane Regional Health District of the falsity of the statement in writing on  
13 November 5, 2020.  
14

15 175. On November 5, 2020, the Administrative Officer of the SRHD  
16 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
17 attorney for the SRHD, and numerous members of the public during a public  
18 special meeting, that Dr. Lutz failed to engage with Incident Commanders during  
19 the COVID pandemic.  
20

21 176. Defendant knew this statement was false because she was involved in  
22 updates and conversations with Dr. Lutz regarding Incident Command, and  
23 Incident Commander Ed Lewis informed the Administrative Officer in writing  
24

1 prior to her making the statements that her statements were false because Dr. Lutz  
2 was very engaged with them and kept them informed.

3 177. Dr. Lutz informed the Administrative Officer and the Board of the  
4 Spokane Regional Health District of the falsity of the statement in writing on  
5 November 5, 2020.  
6

7 178. On November 5, 2020, the Administrative Officer of the SRHD  
8 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
9 attorney for the SRHD, and numerous members of the public during a public  
10 special meeting, that Dr. Lutz authorized a field hospital for inmates without  
11 informing the Administrative Officer.  
12

13 179. Defendant knew this statement was false because both Dr. Lutz and  
14 Incident Commander Chandra Fox informed the Administrative Officer prior to  
15 her making the statements that Dr. Lutz had not authorized a field hospital for  
16 inmates.  
17

18 180. Dr. Lutz informed the Administrative Officer and the Board of the  
19 Spokane Regional Health District of the falsity of the statement in writing on  
20 November 5, 2020.  
21

22 181. On November 5, 2020, the Administrative Officer of the SRHD  
23 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
24 attorney for the SRHD, and numerous members of the public during a public  
special meeting, that Dr. Lutz said he did not want to be part of a team and he was

1 angry that the organization chart for the SRHD shows him reporting to the  
2 Administrative Officer.

3 182. Defendant knew this statement was false because the Administrative  
4 Officer was present during her meeting with Dr. Lutz and is aware Dr. Lutz never  
5 made any statement about not wanting to be part of a team. Additionally, Dr. Lutz  
6 was not angry about the reporting structure of the SRHD but did indicate his  
7 concern that the structure provided that the local health officer was only involved  
8 in tuberculosis programs – which is incorrect and would violate state statutes  
9 which require the local health officer’s involvement.  
10

11 183. Dr. Lutz informed the Administrative Officer and the Board of the  
12 Spokane Regional Health District of the falsity of the statement in writing on  
13 November 5, 2020.  
14

15 184. On November 5, 2020, the Administrative Officer of the SRHD  
16 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
17 attorney for the SRHD, and numerous members of the public during a public  
18 special meeting, that Dr. Lutz made negative comments to employees about  
19 beliefs that do not align with his.  
20

21 185. Defendant has acted with reckless disregard as to the falsity of this  
22 statement and failed to identify any actual issue or individual. Additionally, the  
23 Administrative Officer’s comments are belied by the numerous staff comments  
24 provided to the Administrative Officer prior to her making the false statements

1 that stated Dr. Lutz in fact communicated with other employees in a professional  
2 manner.

3 186. Dr. Lutz informed the Administrative Officer and the Board of the  
4 Spokane Regional Health District of the falsity of the statement in writing on  
5 November 5, 2020.  
6

7 187. On November 5, 2020, the Administrative Officer of the SRHD  
8 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
9 attorney for the SRHD, and numerous members of the public during a public  
10 special meeting, that District Superintendent Michael Dunn complained that Dr.  
11 Lutz had botched the start of schools and that Dr. Lutz might not let anyone open  
12 and has had conversations with people that don't line up.  
13

14 188. Defendant knew this statement was false because no such statement  
15 was ever made. In fact, Superintendent Dunn informed the Administrative Officer  
16 in writing both before and after she made the statements, that the statements she  
17 was making were false and the alleged conversation never took place.  
18

19 189. Dr. Lutz informed the Administrative Officer and the Board of the  
20 Spokane Regional Health District of the falsity of the statement in writing on  
21 November 5, 2020.

22 190. On November 5, 2020, the Administrative Officer of the SRHD  
23 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
24 attorney for the SRHD, and numerous members of the public during a public

1 special meeting, that Dr. Lutz would bully and intimidate other staff and belittle  
2 female staff in a sexist way.

3 191. Defendant never provided any specifics, names, dates, statements, etc.  
4 to support her false statements – nor could she as they did not exist. Additionally,  
5 there are no such complaints or allegations in Dr. Lutz’ personnel file, which they  
6 would have to be if they were ever made.  
7

8 192. Dr. Lutz informed the Administrative Officer and the Board of the  
9 Spokane Regional Health District of the falsity of the statement in writing on  
10 November 5, 2020.

11 193. On November 5, 2020, the Administrative Officer of the SRHD  
12 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
13 attorney for the SRHD, and numerous members of the public during a public  
14 special meeting, that Dr. Lutz improperly used SRHD funds by purchasing a  
15 mobile hotspot for \$217.35 and presenting the invoices for reimbursement;  
16 ordering food for SRHD staff and providing receipts for reimbursement; and not  
17 tracking his time and expenses for the Opioid Task Force.  
18

19 194. Defendant knew this statement was false because the Administrative  
20 Officer herself told Dr. Lutz he could be reimbursed for the hotspot and she  
21 herself approved the reimbursement; SRHD’s Comptroller informed Dr. Lutz he  
22 could be reimbursed for food purchased for SRHD staff and the Comptroller  
23 accepted the receipts – upon being informed that the food would not be  
24

1 reimbursed Dr. Lutz discontinued any request for reimbursement and continued to  
2 pay for food for SRHD staff out of his own pocket as he had always done; the  
3 Administrative Officer knew Dr. Lutz did in fact track his time for the Opioid  
4 Task Force and submitted his time cards, and no personal expenses were incurred.  
5

6 195. Dr. Lutz informed the Administrative Officer and the Board of the  
7 Spokane Regional Health District of the falsity of the statement in writing on  
8 November 5, 2020.

9 196. On November 5, 2020, the Administrative Officer of the SRHD  
10 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
11 attorney for the SRHD, and numerous members of the public during a public  
12 special meeting, that in 2018 Dr. Lutz massaged a female employee's neck and  
13 put his knee behind her knee.  
14

15 197. Defendant knew this statement was false because there was never any  
16 such report because it did not happen, and the Administrative Officer was not at  
17 the SRHD in 2018 and failed to speak with any alleged employee, yet the  
18 Administrative Officer still made the false statements.  
19

20 198. Dr. Lutz informed the Administrative Officer and the Board of the  
21 Spokane Regional Health District of the falsity of the statement in writing on  
22 November 5, 2020.

23 199. On November 5, 2020, the Administrative Officer of the SRHD  
24 falsely stated to members of the Board of the SRHD, employees of the SRHD,

1 attorney for the SRHD, and numerous members of the public during a public  
2 special meeting, that Dr. Lutz used his position as Health Officer to further his  
3 personal agenda and that he is not permitted to speak on “controversial topics”  
4 such as suicide prevention and climate change.

5  
6 200. Defendant knew this statement was false because prior to making the  
7 false statements she was informed by Dr. Lutz and SRHD staff that Dr. Lutz did  
8 not make any such statements and that suicide prevention was appropriate at the  
9 meeting and otherwise dealing with suicide as a public health issue.

10 201. Dr. Lutz informed the Administrative Officer and the Board of the  
11 Spokane Regional Health District of the falsity of the statement in writing on  
12 November 5, 2020.

13  
14 202. On November 5, 2020, the Administrative Officer of the SRHD  
15 falsely stated to members of the Board of the SRHD, employees of the SRHD,  
16 attorney for the SRHD, and numerous members of the public during a public  
17 special meeting, about Dr. Lutz promising jobs to personal acquaintances and  
18 changing the language of a job posting so only one person would be qualified.

19  
20 203. Defendant knew this statement was false or acted with reckless  
21 disregard because she was informed prior to her making the statements that they  
22 were false, and a simple review of the facts would have made it clear to her that  
23 Dr. Lutz did not promise anyone a job but did write a letter of recommendation,  
24 and the job position referenced needed the requirement that individual hired

1 needed to be fluent in Marshallese as they would be working directly with the  
2 Marshallese community in Spokane.

3 204. Dr. Lutz informed the Administrative Officer and the Board of the  
4 Spokane Regional Health District of the falsity of the statement in writing on  
5 November 5, 2020.  
6

7 205. Dr. Lutz provided Defendant with the specific false statement, the  
8 truth with respect to each false statement, and that Defendant correct the false  
9 statements.

10 206. SRHD never corrected the false and defamatory statements.

11 207. On October 7, 2021, and on October 8, 2021, Dr. Lutz again informed  
12 Defendant of the defamatory statements which were identified in detail in writing  
13 on November 5, 2020, and demand for correction.  
14

15 208. SRHD never corrected the false and defamatory statements.

16 209. On January 31, 2023, and February 23, 2023, Plaintiff again demanded  
17 correct, retract, and cease all defamatory statements.  
18

19 210. SRHD never corrected or retracted the false and defamatory  
20 statements.  
21

22 //  
23  
24



1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Wrongful Termination in Violation of SRHD's Bylaws, RCW 70.05,**  
4 **and Washington's Administrative Procedures Act**

5 211. Plaintiff realleges the foregoing paragraphs as though fully set forth  
6 herein.

7 212. RCW 70.05.050 states that "No term of office shall be established for  
8 the local health officer, but the local health officer shall not be removed until after  
9 notice is given, and an opportunity for a hearing before the board or official  
10 responsible for his or her appointment under this section as to the reason for his or  
11 her removal."

12 213. Consistent with this statutory mandate, SRHD's by-laws confirm the  
13 SRHD Board has the sole authority to terminate the District Health Officer. Article  
14 IV of SRHD's bylaws, section 3, provides: "The Board of Health shall approve  
15 the appointment and termination of a District Health Officer."  
16

17 214. Dr. Lutz was hired as SRHD's District Health Officer by the SRHD  
18 Board on or about May 17, 2017. Dr. Lutz reasonably relied upon both the  
19 SRHD's bylaws and RCW 70.05 in accepting this position.  
20

21 215. On October 29, 2020, without warning, notice, hearing or vote of the  
22 SRHD Board, Amelia Clark summarily terminated Dr. Lutz as SRHD's District  
23 Health Officer, "effective immediately," leaving SRHD with no District Health  
24 Officer.

1           216. In an effort to ratify Ms. Clark’s termination of Dr. Lutz, the SRHD  
2 Board hastily scheduled a public special meeting for November 5, 2020, providing  
3 Dr. Lutz less than 48-hours’ notice.

4           217. The Board ordered that Dr. Lutz had only 30 minutes at the special  
5 meeting to present his position. Dr. Lutz was not permitted to ask any questions of  
6 Ms. Clark, or any Board member, or to examine any other witness. No testimony  
7 was given under oath.

8           218. Dr. Lutz objected to the special meeting, asserting that a proper  
9 hearing was governed by Washington’s Administrative Procedures Act  
10 (“WAPA”), RCW 34.05, which, among other things, required at least 7-days’  
11 notice.  
12

13           219. SRHD maintained the WAPA did not apply and proceeded with the  
14 November 5, 2020, “special meeting” as scheduled.  
15

16           220. Ms. Clark’s summary termination of Dr. Lutz on October 29, 2020  
17 was illegal and in violation of RCW 70.05, SRHD’s bylaws, and the WAPA.  
18

19           221. The after-the-fact attempt by the SRHD Board to confirm the  
20 termination was ineffective and the November 5, 2020, meeting was conducted in  
21 violation of RCW 70.05, the SRHD’s bylaws, and the WAPA.

22           222. As a result of this unlawful conduct, Dr. Lutz is entitled to immediate  
23 reinstatement to his position as District Health Officer, together with all damages  
24 he incurred as a result of the wrongful termination, including direct and

1 consequential damages, pain and suffering, and attorney fees and costs, all in an  
2 amount to be determined.

3 **SECOND CAUSE OF ACTION**

4 **Wrongful Termination in Violation of RCW 70.05 and RCW 42.30.110**

5 223. Plaintiff realleges the foregoing paragraphs as though fully set forth  
6 herein.

7 224. The SRHD Board met in an executive session on October 29, 2020, to  
8 discuss the employment of Dr. Lutz.

9 225. To date, SRHD and the Board have refused to disclose what was  
10 discussed during this session, including whether any official actions or decisions  
11 were taken with respect to Dr. Lutz.

12 226. If any official actions, decisions or votes were taken with respect to  
13 the continued employment of Dr. Lutz during the October 29, 2020, including  
14 authorizing Ms. Clark to terminate Dr. Lutz's employment, such action was illegal  
15 and invalid under Washington law, including RCW 70.05.050, RCW 42.30.110  
16 and RCW 34.05.

17 227. To the extent Dr. Lutz's termination is based in any way on  
18 decisions, votes or directives given by the SRHD Board during the October 29,  
19 2020 executive session, Dr. Lutz is entitled to immediate reinstatement to his  
20 position as Health Officer, together with all damages he incurred as a result of the  
21  
22  
23  
24

wrongful termination, including direct and consequential damages, pain and suffering, and attorney fees and costs, all in an amount to be determined at trial.

### **THIRD CAUSE OF ACTION**

#### **Wrongful Termination –Lack of Notice of the Reason for Removal**

228. Plaintiff realleges the foregoing paragraphs as though fully set forth herein.

229. As the SRHD's LHO, Dr. Lutz's job duties and responsibilities were defined by state law, including in RCW 70.05.070, WAC 246-101-505 and WAC 246-100-036.

230. RCW 70.05.050, states in relevant part: "No term of office shall be established for the local health officer but the local health officer shall not be removed until after notice is given, and an opportunity for a hearing before the board or official responsible for his or her appointment under this section as to the reason for his or her removal."

231. The SRHD did not provide the purported reason or notice of the purported reason or justification to terminate Dr. Lutz as the SRHD's District Health Officer.

232. The SRHD's Board's termination of Dr. Lutz was wrongful and in violation of Washington law.

233. Dr. Lutz was not given the actual reason for his removal and Dr. Lutz was not given notice of the reason for removal.

234. As a result of his wrongful termination, Dr. Lutz is entitled to immediate reinstatement to his position as District Health Officer, together with all damages he incurred as a result of the wrongful termination, including direct and consequential damages, pain and suffering, and attorney fees and costs, all in an amount to be determined at trial.

**FOURTH CAUSE OF ACTION**

**Wrongful Termination in Violation of Procedural Due Process Rights of the Fifth and Fourteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1983, and Wash. Const. Article 1, Section 3.**

235. Plaintiff realleges the foregoing paragraphs as though fully set forth herein.

236. SRHD, by the acts of its agents, and Amelia Clark wrongfully terminated and retaliated against Dr. Lutz in violation of his procedural due process rights under the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, 42 U.S.C. § 1983 and Article 1, section 3 of the Washington Constitution.

237. As a result of his wrongful termination and retaliation, Dr. Lutz is entitled to immediate reinstatement to his position as District Health Officer, together with all damages he incurred as a result of Defendants' actions, including direct and consequential damages, pain and suffering, and attorney fees and costs, all in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**

**Wrongful Termination in Violation of Free Speech Rights of the 1<sup>st</sup> Amendment to the U.S. Constitution, 42 U.S.C. § 1983, and Wash. Const. Article 1, Section 4.**

238. Plaintiff realleges the foregoing paragraphs as though fully set forth herein.

239. SRHD, by the acts of its agents, and Amelia Clark wrongfully terminated and retaliated against Dr. Lutz in violation of his free speech rights under the 1<sup>st</sup> Amendment to the U.S. Constitution, 42 U.S.C. § 1983 and Article 1, section 4 of the Washington Constitution.

240. As a result of his wrongful termination and retaliation, Dr. Lutz is entitled to immediate reinstatement to his position as District Health Officer, together with all damages he incurred as a result of Defendants' actions, including direct and consequential damages, pain and suffering, and attorney fees and costs, all in an amount to be determined at trial.

**SIXTH CAUSE OF ACTION**  
**Defamation**

241. Plaintiff realleges the foregoing paragraphs as though fully set forth herein.

242. SRHD, by the acts of its agents, and Amelia Clark perpetuated and aided in the defamation of Dr. Lutz by knowingly, or with reckless disregard for the truth, making unprivileged false and untruthful statements about his ethics,

1 professionalism, misappropriation of public funds and the performance of his job  
2 as detailed above.

3 243. Dr. Lutz has identified the false statements in writing and provided  
4 SRHD with the true facts in contradiction to the false and defamatory statements.  
5

6 244. Dr. Lutz has requested and demanded on multiple occasions that  
7 SRHD correct and retract the false and defamatory statements.

8 245. The SRHD has not corrected or retracted any of the statements.

9 246. As a result of the false and defamatory statements, Dr. Lutz is entitled  
10 to all resulting damages he incurred as a result of Defendants' actions, including  
11 direct and consequential damages, pain and suffering, and attorney fees and costs,  
12 all in an amount to be determined at trial.  
13

## 14 **VII. PRAYER FOR RELIEF**

15 Plaintiff asks the Court to enter judgment against the Defendant for the  
16 following relief:

17 1. For immediate reinstatement of Dr. Lutz as SRHD's District Health  
18 Officer;  
19

20 2. For all damages sustained by Dr. Lutz, including but not limited to  
21 lost wages, lost benefits, lost future earnings, lost earning potential, emotional  
22 distress, damage to reputation, pain and suffering, and other general damages;  
23

24 3. For pre- and post-judgment interest;

1 4. For all costs, including reasonable attorneys' fees, incurred in this  
2 action;

3 5. For the tax consequences of an award of judgment;

4 6. Punitive damages pursuant to 42 U.S.C. § 1983;

5 7. For such other and further relief as the Court deems just and equitable.  
6

7 DATED this 28th day of December, 2023.

8 LEE & HAYES, P.C.

9 By: 

10 \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

s/ Caleb Hatch

Caleb Hatch, WSBA # 51292

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